

WIDELY-ATTENDED GATHERING REQUEST¹

An employee offered free attendance to an event where her participation may be in the interest of the DoD, but where the invitation is offered because of her official position or comes from a “prohibited source,” as discussed below, must first obtain written approval (5 C.F.R. § 2635.204(g)(1) & (3)). In most cases, approval may be given by the employee’s supervisor, after consultation with an ethics counselor. Supervisors should consider the following information in determining whether there is an agency interest in approving the employee’s attendance. TAB A should be used to gather information and forwarded with the memo in TAB B to an ethics counselor by email for review. For employees in the Office of the Secretary of Defense, requests should be sent to osd.soco@mail.mil.

General Rule: Employee’s generally may not accept gifts, including free attendance, offered because of their official position or offered by a person or organization that seeks official action or business with the employee’s agency, is regulated by the employee’s agency, or has interests that could be substantially affected by the performance or nonperformance of the employee’s official duties. An exception exists for certain widely attended events, however.

Exception: An employee may accept an unsolicited offer of free attendance from the sponsor of a “widely attended gathering” if the agency makes a written determination that the agency has an interest in the employee’s attendance, and that this interest outweighs any concern the employee may be, or may appear to be, improperly influenced in the performance of official duties.

Agency Designee: The written determination discussed above must be made by the first supervisor who is a commissioned military officer or a civilian (not a contractor) above GS-11 in the chain of command or supervision of the DoD employee invited to attend the event. The Agency Designee must consult with his ethics counselor. For any military officer in grade O-7 or above who is in command, and any civilian Presidential appointee confirmed by the Senate, the Agency Designee is the ethics counselor. (JER 1-202, DoD 5500.7-R)

Criteria for Approval (5 C.F.R. 2635.204(g)(3)): The agency designee must find that:

(1) The event is a widely attended gathering. That is, a large number of persons with a diversity of views or interests are expected to be present, and there will be an opportunity to exchange ideas and views with other attendee (5 C.F.R. 2635.204(g)(2)); and

(2) The employee’s attendance at the event is in the agency’s interest because it will further agency programs or operations; and

(3) The agency’s interest in the employee’s attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties; and

¹ Do not use this sample request where the employee has been offered free attendance to present information on behalf of the agency at an event. Such speaking engagements are covered by another rule and free attendance on the day the employee is presenting information may generally be accepted. Consult your ethics counselor for advice.

(4) If a person other than the sponsor of the event invites or designates the employee as the recipient of the gift of free attendance and bears the cost of that gift, the event is expected to be attended by more than 100 persons and the value of the gift of free attendance does not exceed \$375.

Relevant Factors (5 C.F.R. 2635.204(g)(4)): In determining whether the agency's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties, the agency designee may consider relevant factors including:

- The importance of the event to the agency;
- The nature and sensitivity of any pending matter affecting the interests of the person who extended the invitation and the significance of the employee's role in any such matter;
- The purpose of the event;
- The identity of other expected participants;
- Whether acceptance would reasonably create the appearance that the donor is receiving preferential treatment;
- Whether the Government is also providing [or would provide] persons with views or interests that differ from those of the donor with access to the Government; and
- The market value of the gift of free attendance.

Accompanying spouse or other guest (5 C.F.R. 2635.204(g)(6)): When others in attendance will generally be accompanied by a spouse or other guest, and where the invitation is from the same person who has invited the employee, the agency designee may authorize an employee to accept an unsolicited invitation of free attendance to an accompanying spouse or one other accompanying guest to participate in all or a portion of the event. This authorization must be in writing.

Tabs

A – WAG Request Information

B – Memorandum for Record: Written Authorization to Accept Free Attendance at a Widely Attended Gathering

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TAB A

WAG Request Information

Note: all items must be completed, unless otherwise indicated.

1. Name of Invitee(s):
[Please indicate if invitee(s) are authorized to bring guests and number]
2. Name of the event:
3. Sponsor(s) or organizer(s) of the event:
4. Date of the event:
5. Location of the event:
6. Nature and purpose of the event:
7. Approximate total number of attendees:
8. Identify general sources of attendees at the event. (check all that apply)
 - Federal Executive Branch
 - DoD _____
 - Non-DoD _____
 - State or local Government _____
 - Academia _____
 - Industry _____
 - Legislative Branch _____
 - Other (describe) _____
9. Is an entity other than the event sponsor paying the cost for DoD invitees?
 - No _____
 - Yes _____
 - Identify that entity and the names of the DoD invitees it will pay for.
10. Is an entity other than the sponsor designating the DoD invitees?
 - No _____
 - Yes _____
 - Identify that entity and the names of the DoD invitees that it designates.

NOT A GOVERNMENT FORM OR RECORD

11. Does the invitation include an unsolicited offer for the employee to bring a guest?
- No____
 - Yes____
 - How many? _____
 - Will others in attendance also be accompanied by a guest? (Y / N)
12. Does the person / organization extending the invitation have any matter(s) pending before DoD and, if so, is the DoD employee who has been invited to the event involved in these matters?
13. What is the estimated cost per person of food, refreshments and entertainment at the event?
\$_____ per person.
14. If different from the value listed in No. 13 above, identify the ticket or entry fee cost to attend the event. Tickets cost \$_____ per person
15. Identify other gifts being offered in addition to free attendance (i.e., free parking, memento, transportation, etc.)
- None____
 - Other gifts (List) _____
16. Identify the estimated cost of these other gifts.
17. Is the sponsoring or inviting organization tax-exempt under 501(c)(3)?
- Yes____
 - No____
18. Is this a fundraising event (e.g., is any portion of the admission price tax deductible)?
- No____
 - Yes____
If available, portion of admission suggested as tax deductible
19. Is this an event recurring from year to year?
- Yes____
 - No____

Comments Section: Please provide any additional information (copy of invitation, etc.)

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TAB B

Date:

MEMORANDUM FOR RECORD

SUBJECT: Written Authorization to Accept Free Attendance at a Widely Attended Gathering

[employee name] has been invited by [non-Federal source] to attend [name event] on [date of meeting] in [place of meeting] at no charge. [employee name] is a Federal employee assigned as [position] in the [office / command]. [The offer of free attendance includes an invitation for [employee name] to bring a guest.] The event will be attended by approximately [##] people from [government, industry, academia, other (name all that apply)] representing a diversity of views or interests. There will be an opportunity for [employee name] to exchange ideas and views with other attendees. I find that the event is a widely attended gathering; the employee's attendance is in the agency's interest because it will further agency programs or operations; and the agency's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties.

I have considered the importance of the event to the agency, the nature and sensitivity of any pending matter affecting the interests of [non-Federal source] and the significance of [employee name]'s role in any such matter. I have also considered the purpose of the event, the identity of other expected participants, the value of the gift of free attendance, whether acceptance would reasonably create the appearance that [non-Federal source] is receiving preferential treatment, and persons with views or interests that differ from those of [non-Federal source] have been, or would be, provided similar access to Government employees.

Acceptance of this offer of free attendance is approved, subject to [ethics counselor / ethics office], review and concurrence. This memorandum will be coordinated with to [ethics counselor / ethics office] prior to acceptance.

[Supervisor name, position, grade],

Point of Contact: _____

Phone: _____

Ethics Counselor Coordination: Concur _____

Non-concur _____

Copy to: [employee name]

* Employee's should retain a copy of this memo for six years